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BEFORE THE ARIZONA CORPORATION COMMISSION

CARL J. KUNASEK
CHAIRMAN
JIM IRVIN
COMMISSIONER
WILLIAM A. MUNDELL
COMMISSIONER

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IN THE MATTER OF INVESTIGATION INTO U S
WEST COMMUNICATIONS, INC.'S
COMPLIANCE WITH CERTAIN WHOLESALE
PRICING REQUIREMENTS FOR UNBUNDLED
NETWORK ELEMENTS AND RESALE
DISCOUNTS.

DOCKET NO. T-00000A-00-0194

PROCEDURAL ORDER**BY THE COMMISSION:**

On January 28, 2000, the Arizona Corporation Commission ("Commission") Staff filed a Motion to Reopen Docket or Open a New Sub-Docket ("Motion"). On February 7, 2000, AT&T Communications of the Mountain States, Inc. and TCG Phoenix (collectively, "AT&T") filed a Response to Staff's Motion. On February 8, 2000, Cox Arizona Telcom L.L.C. ("Cox") filed Comments on Staff's Motion. On February 14, 2000, U S WEST Communications, Inc. ("U S WEST") filed a Response to Staff's Motion. On February 15, 2000, MCI WorldCom, Inc. ("MCI") filed a Response to Staff's Motion. On February 18, 2000, Sprint Communications Company, L.P. ("Sprint") filed a Joinder in Comments of AT&T and MCI.

AT&T, Cox, MCI, and Sprint all supported Staff's Motion. U S WEST also supported the Motion but did request a new docket be established. As a result, the above-referenced new docket was opened.

Our March 30, 2000 Procedural Order ordered that all parties shall file on or before 4:00 p.m. on April 21, 2000 recommendations for additional phases and the corresponding issues along with any deadlines that need to be met as a result of a specific legal requirement.

Our March 30, 2000 Procedural Order further ordered that all parties shall file responsive comments to the April 21, 2000 recommendations on or before 4:00 p.m. on May 5, 2000.

In its recommendations, Staff reiterated its position that the Commission should examine issues raised as a result of: 1) the United States Supreme Court's decision in AT&T v. Iowa Utilities Board, 119 S.Ct. 721 (1999); 2) the District Court's decision on the Commission's arbitration order

1 regarding the costs of resold retail and wholesale services, U S WEST v. Jennings, 46 F. Supp.2d
2 1004 (D.Ariz. 1999); and 3) the Federal Communications Commission's ("FCC") order lifting the
3 FCC's previous stay of the FCC's rule requiring geographic deaveraging of wholesale rates and order
4 requiring U S WEST to establish rates for line sharing.

5 According to Staff, the Commission has not yet undertaken an examination of unbundled
6 network element ("UNE") and interconnection rates established by it on May 5, 1998 for their
7 compliance with the reinstated pricing provisions of the Telecommunications Act of 1996 under
8 AT&T v. Iowa Utilities Board, 119 S.Ct. 721 (1999) nor issues arising from the FCC's UNE Remand
9 Order which was released on November 5, 1999 which addressed issues remanded to it in AT&T v.
10 Iowa Utilities Board. According to Staff, the FCC concluded that the following network elements
11 must be unbundled:

- 12 1. the loop including high capacity lines, xDSL-capable loops, dark fiber and inside wire
- 13 2. subloops
- 14 3. network interface devices ("NID")
- 15 4. circuit switching
- 16 5. packet switching
- 17 6. interoffice transmission facilities including shared transport where unbundled local
- 18 circuit switching is provided
- 19 7. signaling and call-related databases such as Line Information, Toll Free Calling,
- 20 Number Portability, Calling Name, Operator Services/directory Assistance, Advanced
- 21 Intelligent Network ("AIN"), and AIN platform and architecture
- 22 8. operational support systems.

23 Staff supports addressing all issues arising from the FCC's UNE Remand Order in Phase II of
24 this proceeding.

25 As Phase I has been designated to establish "interim" geographically deaveraged UNE rates to
26 comply with Section 51.507(f) of the FCC's rules and regulations, Staff also advocated the
27 establishment of permanent geographically deaveraged UNE and other wholesale rates, as
28 appropriate, should be undertaken in Phase II of this proceeding.

1 Staff stated that rates in addition to the UNE rates which should be reviewed for compliance
2 with the reinstated FCC rules include those established by the Commission for interconnection,
3 reciprocal compensation, including transport and termination, and the wholesale discounts. Staff
4 stated that the review of U S WEST's existing wholesale rates for compliance with the reinstated
5 FCC rules should be done within the context of Phase II of this proceeding.

6 Additionally, Staff stated that the FCC's Line Sharing Order amended its unbundling rules to
7 require incumbent LECs to provide unbundled access to a new network element, the high frequency
8 portion of the local loop. Staff recommends that these issues also be included in Phase II of this
9 proceeding.

10 The Arizona District Court in U S WEST v. Jennings, 46 F.Supp 2d 1004 (D.Ariz. 1999),
11 remanded several issues to the Commission for reexamination. Several issues were appealed to the
12 Ninth Circuit Court of Appeals. However, Staff stated that the issues not being addressed by the
13 Ninth Circuit which the Commission should examine at this point include: 1) the need to establish
14 additional resale discount rates, after considering the range of cost savings for different categories of
15 services, 2) the customer transfer charge 3) an appropriate compensation mechanism for Internet
16 Service Providers and 4) UNE platform rates.

17 Staff also recommends that the Commission review the new rates contained in U S WEST's
18 revised Statement of Generally Available Terms and Conditions ("SGAT") in this proceeding. Staff
19 stated that this is consistent with Decision No. 61624, which allowed U S WEST's SGAT to take
20 effect pending further review by the Commission pursuant to Section 252(f)(4) of the 1996 Act.
21 AT&T and MCI also support this review of the new rates contained in the SGAT. Additionally, Staff
22 stated that there are also many non-cost provisions in the SGAT that have not yet been reviewed by
23 the Commission for compliance with the 1996 Act. Staff therefore requests that the Commission
24 review both the cost and non-cost provisions of the SGAT for compliance with the 1996 Act within
25 Phase II.

26 Staff also opined that this proceeding should also have a Phase III to cover other issues such
27 as issues raised in the FCC's Advanced Services First Report and Order (Collocation) and a review of
28 both the cost and non-cost provisions of the SGAT, to the extent they have not already been reviewed

1 in Phase II of this proceeding.

2 On April 21, 2000, AT&T, MCI WorldCom, and Sprint ("Joint Commentors") state that the
3 Commission must establish cost-based recurring and nonrecurring charges for purchasing combined
4 network elements. They also argue that the Commission must also establish appropriate charges for
5 obtaining separate network elements and combining them, whether the combining is performed by U
6 S WEST at the request of the CLEC or the CLEC elects to combine the elements itself.

7 Under U S WEST v. Jennings, the associated appeal, and eliminating any non-cost issues, the
8 Joint Commentors state the only two issues before the Commission for consideration are the
9 customer transfer charge and the resale discount.

10 The Joint Commentors set forth the different FCC orders that they assert that the Commission
11 should address: the Advanced Services Order, the UNE Remand Order, and the Line Sharing Order.
12 Additionally, the Joint Commentors state that the SGAT contains a number of rate elements that are
13 under development and some rates have not been verified as based on forward-looking costs.

14 The Joint Commentors also opine that the Commission must order and establish cost-based
15 rates for situations where a CLEC has only one point of interface and that CLECs should not be
16 charged for tandem transmission rates between the host and remote.

17 The Joint Commentors recommend that the Commission review the costs of the loop,
18 including the high frequency portion of the loop, switching and transport in Phase II. Additionally, as
19 part of Phase II, the Commission should establish rates for the new network elements identified in the
20 UNE Remand Order and the direct costs identified in the Line Sharing Order.

21 The Joint Commentors state that a third phase can review collocation rates, and a fourth phase
22 the resale discount and any remaining costs issues.

23 On April 24, 2000, Covad Communications Company ("Covad") and New Edge Networks
24 ("New Edge") submitted their recommendations regarding additional issues. Covad and New Edge
25 believe that the Commission should price the following items and elements: line sharing, sub-loop
26 elements, loops, dark fiber, packet switching UNEs, and U S WEST's SGAT.

27 Covad and New Edge suggest that line sharing costs be addressed as quickly as possible in
28 Phase II given the anticipated demand for line sharing and its rapid implementation.

1 On April 21, 2000, Rhythms Links, Inc. ("Rhythms") filed comments that generally concur
2 with the AT&T list of issues, but Rhythms places the highest priority on three issues: loop pricing,
3 including loop conditioning pricing, line sharing pricing, and sub-loop pricing.

4 On April 21, 2000, NEXTLINK Arizona, Inc. supports and joins in the Recommendation for
5 Phases and Corresponding Issues filed by AT&T, TCG Phoenix, MCI WorldCom, and Sprint.

6 On April 21, 2000, Electric Lightwave, Inc. ("ELI") joined in AT&T and TCG Phoenix's list
7 of additional costing issues.

8 On April 24, 2000, U S WEST filed its comments for the scope of the proceeding. In the
9 second phase, U S WEST stated that the Commission should address the rates for line sharing and for
10 new network elements identified in the FCC's Third Report and Order. The Commission could also
11 address matters raised by FCC orders issued since the initial cost docket.

12 U S WEST also argued that the issues raised by the remand of U S WEST v. Jennings should
13 be addressed in the Commission docket that was created for that matter as a different group of parties
14 appeared in that proceeding.

15 U S WEST also stated that issues relating to the 271 Docket should be addressed in the SGAT
16 docket that has already been created.

17 On May 5, 2000, U S WEST recommended that the next phase of this docket should be
18 divided into three parts to address the following three groups of related topics: Part I: DS1 and DS3
19 capable loops, shared transport, dark fiber, custom routing; Part II: Line Sharing and collocation;
20 Part III: Signaling and call related database and resolution of all remaining SGAT issues not already
21 resolved in the 271 docket.

22 In its May 5, 2000 comments, U S WEST also sets forth its responses to individual issues
23 raised by the Interexchange carriers.

24 On July 18, 2000, the Commission issued a decision on Phase I of this matter. Also on July
25 18, 2000, the 8th Circuit Court of Appeals issued Decision No. 96-3321 in Iowa Utilities Board, et al
26 v. Federal Communications Commission and United States of America.

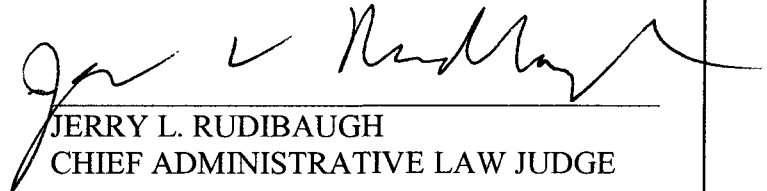
27 As a result, it is appropriate for the parties to comment on any recommended changes in
28 issues/timeframes as a result of the recent Court of Appeals Decision referenced above.

1 IT IS THEREFORE ORDERED that all parties shall file on or before 4:00 p.m. on August 4,
2 2000 any recommended changes in issues/timeframes as a result of the recent Court of Appeals
3 Decision referenced above.

4 IT IS FURTHER ORDERED that any responsive comments to the August 4, 2000
5 recommendations shall be filed on or before 4:00 p.m. on August 18, 2000.

6 IT IS FURTHER ORDERED that the Arbitrator(s) may rescind, alter, amend, or waive any
7 portion of this Procedural Order either by subsequent Procedural Order or by ruling at arbitration.

8 DATED this 24th day of July, 2000.

9
10
11 
12 JERRY L. RUDIBAUGH
CHIEF ADMINISTRATIVE LAW JUDGE

13 Copies of the foregoing mailed/delivered
14 this 24th day of July, 2000 to:

15 Thomas Dethlefs
16 U S WEST
17 1801 California Street, Suite 5100
Denver, Colorado 80202

18 Richard S. Wolters
19 AT&T
20 1875 Lawrence Street, Room 1575
Denver, Colorado 80202-1847

21 Michael W. Patten
22 BROWN & BAIN
23 P.O. Box 400
Phoenix, Arizona 85001-0400
24 Attorneys for Cox Arizona Telcom, Inc., and
e-spire™ Communications

25 Michael Grant
26 GALLAGHER & KENNEDY
27 2575 E. Camelback Road
Phoenix, Arizona 85016-9225
28 Attorneys for Electric Lightwave, Inc., COVAD
Communications, Inc. and New Edge Networks

1 Thomas H. Campbell
2 LEWIS & ROCA
3 40 N. Central Avenue
4 Phoenix, Arizona 85007
5 Attorneys for Rhythms Links, Inc.

6 Thomas F. Dixon, Jr.
7 MCI WorldCom
8 707 17th Street
9 Denver, Colorado 80202

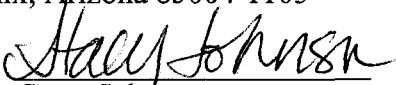
10 Darren S. Weingard
11 Stephen H. Kukta
12 SPRINT COMMUNICATIONS CO.
13 1850 Gateway Drive, 7th Floor
14 San Mateo, California 94404-2467

15 Scott S. Wakefield
16 RUCO
17 2828 N. Central Avenue, Suite 1200
18 Phoenix, Arizona 85004

19 Lyn Farmer, Chief Counsel
20 LEGAL DIVISION
21 1200 W. Washington Street
22 Phoenix, Arizona 85007

23 Deborah Scott, Director
24 UTILITIES DIVISION
25 1200 W. Washington Street
26 Phoenix, Arizona 85007

27 ARIZONA REPORTING SERVICE, INC.
28 2627 N. Third Street, Suite Three
Phoenix, Arizona 85004-1103

By: 
Stacy Johnson
Secretary to Jerry L. Rudibaugh